

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN  
AFFILIATED, LLC,

*Plaintiffs,*

v.

SPOTIFY USA INC.; HARRY FOX  
AGENCY, LLC,

*Defendant.*

Civil Case No. 19-CV-00736

Hon. Aleta A. Trauger

JURY DEMAND

SPOTIFY USA INC.,

*Third-Party Plaintiff,*

v.

KOBALT MUSIC PUBLISHING AMERICA,  
INC.,

*Third-Party Defendant.*

**SPOTIFY USA INC.'S MOTION FOR REVIEW OF NONDISPOSITIVE ORDER OF  
MAGISTRATE JUDGE DENYING PROTECTIVE ORDER**

Pursuant to Fed. R. Civ. P. 72(a) and Local Rule 72.01(a), Defendant Spotify USA Inc. (“Spotify”), respectfully moves this Court to revise Magistrate Judge Frensley’s Order (Docket No. 238) denying Spotify’s motion for a protective order barring the deposition of Daniel Ek (Docket No. 221). This Order should be modified because (i) Plaintiffs are seeking to depose Mr. Ek on matters related to damages, and Magistrate Judge Frensley’s Order thus violates this Court’s case management order requiring bifurcation; and (ii) Magistrate Judge Frensley was not made aware of Eight Mile’s post-briefing decision to depose James Duffett-Smith, the alternative

witness Spotify has proffered—a changed circumstance further underscoring that the Order’s interpretation of Fed. R. Civ. P. 26 and resulting conclusion is contrary to law. Accordingly, the Court should modify Magistrate Judge Frensley’s order, and grant Spotify’s motion for a protective order barring the deposition of Daniel Ek from proceeding at this time. In support of this Motion, Spotify is filing herewith a memorandum of law.

**LOCAL RULE 7.01(a)(1) STATEMENT**

Pursuant to Local Rule 7.01(a)(1), counsel for Spotify conferred with Plaintiffs’ counsel via e-mail on April 14, 2022 and Plaintiffs’ counsel opposes the relief requested in this Motion.

Dated: April 14, 2022

Respectfully Submitted,

By: /s/ Aubrey B. Harwell III

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on April 14, 2022, with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system. Parties may access this filing through the Court's electronic filing system.

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